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AICPA *Washington Report*

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FEDERAL COMMUNICATIONS COMMISSION

Amendments regarding the accounting for customer-premises equipment after detariffing have been issued under a notice of proposed rulemaking by the Commission (see the 10/12/82 Fed. Reg., pp. 44781-86). The revisions to Parts 34 and 35, the "Uniform System of Accounts for Radiotelegraph Carriers" and the "Uniform System of Accounts for Wire-Telegraph and Ocean-Cable Carriers," respectively, are designed to keep separate the revenues associated with the carrier's regulated activities from those associated with the carrier's non-regulated activities. Further, the notice will consider changes to Annual Report Forms O and R to concur with the changes to Parts 34 and 35. Comments are requested by 11/8/82. For additional information contact Gerald Vaughan at 202/634-1861.

FEDERAL RESERVE BOARD

The proposed amendment to Regulation Z (Truth in Lending) has been withdrawn by the Board (see the 10/12/82 Fed. Reg., pp. 44741-44). The original proposal required seller's points to be included in the finance charge or a disclosure that seller's points are involved in a transaction. The withdrawal is primarily the result of the comments received on the proposal, specifically the uncertainty concerning the extent to which seller's points are passed on to consumers and the consumer benefit of any action in this area and the cost and disruption any action could impose. The withdrawal is effective as of 9/29/82. For additional information contact Gerald Hurst at 202/452-2412.

Regulation D, Reserve Requirements of Depository Institutions, Transaction Accounts were the subjects of a recent temporary rule and request for public comment by the Federal Reserve Board (see the 10/13/82 Fed. Reg., pp. 44992-94). According to the Board of Governors of the FED, several depository institutions have recently begun issuing complex time arrangements involving a line of credit that may be accessed by checks drawn on the issuing institution that are payable to third parties. These arrangements, according to the Board, have the effect of allowing depositors to earn market rates of interest on funds that may be used for third party payments. The Board believes that these circuitous arrangements both circumvent transaction account reserve requirements under Regulation D, since they convert longer term time deposits into deposits that properly should be regarded as transaction accounts, and evade the intent of the interest rate limitations established by the Depository Institutions Deregulation Committee (DIDC). As a result, the temporary rule now defines the so-called "loophole accounts" as transaction accounts, subject to reserve and interest rate limitations. Comments are requested by 12/3/82. For additional information contact Gilbert Schwartz at 202/452-3625.

SECURITIES AND EXCHANGE COMMISSION

A proposal that would have limited the liability of accountants for reports on unaudited supplementary financial information on oil and gas reserves and the impact of inflation will be withdrawn by the Commission. At the Commission's open meeting held on 10/14/82, the 4/80 proposal, which would have excluded accountants from liability under Section 11 of the Securities Act of 1933, was rejected by the Commissioners, who noted that investors are relying more and more on supplementary or "soft" information and contended that the possibility of liability (for accountants) would serve as a self-disciplining tool. The Commission also approved a proposal that would make public the letters prepared by the Office of the Chief Accountant regarding the impact of certain relationships between registrants and accountants on the independence of those accountants. The letters are similar to no action letters prepared by other SEC divisions. The Commission also agreed to propose a rule that would clarify the definition of the term "member" as it pertains to SEC's rules on

the independence of accountants. Chief Accountant Clarence Sampson explained that the proposal is intended to clarify that non-management staff working on an audit are not subject to the same restrictions regarding independence as the accounting firm's management employees and partners.

Nelson Kibbler, CPA, Assistant Director of Compliance and Financial Responsibility, Division of Market Regulation at the SEC, is leaving the SEC to join a newly formed Financial Services Group of Touche Ross in the firm's New York office on 11/1/82. Mr. Kibbler has been with the SEC since 1966 and is the recipient of an SEC Distinguished Service Award. Mr. Kibbler is a member of the AICPA.

Potentially sweeping changes to proxy rules regarding shareholder proposals may result from the Commission's recent agreement to issue a release for comments which contains three different proposals. The SEC proposal would amend Rule 14a-8 under the Securities Exchange Act of 1934, an area which was last dealt with in 1976. The proposal deals with the issue of how to regulate shareholder proposals which must be included in proxy material and distributed at the expense of the corporation. The three proposals would deal with the issue by applying various degrees of regulation from stiffening current criteria under Rule 14a-8 to removing essentially all obstacles to submitting shareholder proposals. The Commissioners did not appear to be sympathetic to the concept of shareholder proposals at their 10/14/82 open meeting at which they approved the release. Commissioner Barbara S. Thomas contended that shareholder proposals are no longer being used by shareholders to question managements' business decisions, but have become the tool of political agents. She said she was distressed by the highly political nature of the proposals, especially in light of the great expense they impose on corporate issuers.

TREASURY, DEPARTMENT OF

Temporary regulations relating to withholding from pensions, annuities and certain other deferred income are the subjects of a recent notice from the Department of the Treasury (see the 10/14/82 Fed. Reg., pp. 45868-78). Enactment of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) directed the addition of Sections 3405, 6047(e), and 6704 to the Internal Revenue Code of 1954. In addition, Section 3402(o) of the Code was amended by Section 334 of TEFRA. As these withholding provisions are generally effective for payments made after 12/31/82, the temporary regulations will provide immediate guidance so that payors and payees can make preparations to comply with these provisions. The temporary regulations are presented in the form of questions and answers in five major categories, including general withholding, periodic payments, non-periodic distributions, notice and election procedures and reporting and recordkeeping. Some examples include: how did TEFRA change the law on withholding; how will federal income tax be withheld from a "qualified total distribution"; who is plan administrator; and, is the payor of periodic payments required to aggregate such payments with a payee's compensation to determine the amount of tax to be withheld under section 3405(a)(1). For additional information contact Patricia Keesler or Mary Levontin at 202/566-3430.

Final regulations on industrial development bonds for residential rental housing were recently issued by the IRS (see the 10/15/82 Fed. Reg., pp. 46080-85). Changes to section 103(b)(4)(A) of the Internal Revenue Code of 1954 were made by sections 1103 and 1104 of the Omnibus Reconciliation Act of 1980 and section 221 of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA). These final regulations, issued as T.D. 7840, according to IRS, interpret those provisions. In general, the final regulations are effective with respect to obligations issued after 4/24/79. Regulations under section 1.102(b)(7)(iii) are effective with respect to obligations issued after 9/3/82. The final regulations make changes

in the definition of residential rental property, clarify the meaning of the term "similar units," address resident manager occupancy, and involuntary noncompliance. For additional information contact Harold Flanagan at 202/566-3294.

Major initiatives under the taxpayer services program may be hindered, according to IRS Commissioner Roscoe Egger, due to insufficient funding levels set by Congress and a disagreement over the merits of the program. Speaking at the 10/12-13/82 advisory group meeting, Mr. Egger said, "the IRS has found itself in a dilemma" over the future of the toll-free taxpayer telephone service program and the walk-in assistance program. Assistant Commissioner for Information and Returns Processing Ed Heironimus told the advisory group that the Service would like to replace the toll-free service with a computer service allowing taxpayers to phone in and listen to a tape recording of return information on different subjects. The IRS had requested a \$50 million cut in its fiscal 1983 budget for taxpayer service programs. A House Appropriations Subcommittee voted to restore the funding for these programs, however, its Senate counterpart has requested that the IRS continue the programs at current funding levels and cut the \$50 million from other programs. The continuing resolution signed by President Reagan on 10/2 requires that the IRS follow the lower cost Senate method of funding the programs. If Congress decides, during its post-election session, to adopt the House's recommendations to restore the funding completely, Egger argued that this arrangement was "impossible" to carry out and "I don't know how we can set up the programs in time to begin 1/1/83."

For additional information, please contact Jim Kovakas, Gina Rosasco, Nick Nichols or Kathee Baker at 202/872-8190.

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